



Press and Information

Court of Justice of the European Union
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Judgment in Case C-37/14
Commission v France

The Court holds that France has not taken all the necessary measures to recover aid granted illegally to French fruit and vegetable producers

Until 2002, France granted aid to fruit and vegetables producers in the context of ‘contingency plans’. The aim of the contingency plan measures was to prevent or, in the event of a crisis, to mitigate the effects of supply temporarily exceeding demand. That aid was first distributed among the producer organisations (‘POs’) which had been part of the contingency plan, before being passed on to the producers.

Following a complaint, the Commission found that the measures taken in the context of the contingency plans constituted State Aid. According to the Commission, those measures were intended to facilitate the sale of French produce by making it possible for producers to benefit from a sales price higher than the actual cost paid by the buyer of the goods. Having concluded that the aid was illegal, in 2009 the Commission ordered France to recover that aid from the producers. According to an estimate of the French authorities, the total sums to be recovered amounted to €338 million.

France – along with other stakeholders – challenged the Commission’s decision before the General Court. By judgments of 27 September 2012,¹ the General Court dismissed the actions. No appeal was lodged against those judgments. As recovery of the aid had not taken place within the prescribed time limit, the Commission decided to bring an action before the Court of Justice against France for failure to fulfil obligations.

By today’s judgment, the Court finds that **France failed to take the necessary measures to recover from the beneficiaries the State aid granted illegally in the context of ‘contingency plans’ in the fruit and vegetable sector.**

The Court notes that no measure was adopted by France in order to recover that aid within the period prescribed by the Commission (that is to say, four months) in its decision ordering the recovery and that it was only in May 2011, nearly two years after the expiry of that time-limit, that France initiated the recovery procedure. The Court also notes that the procedure for the recovery of the aid was still ongoing at the time of the hearing before the Court in the present case, that is, six years after the notification of the decision ordering the recovery.

In addition, the Court finds that France has failed to demonstrate that it was absolutely impossible for it to implement the decision ordering the recovery. Furthermore, France failed to provide precise and specific data establishing, for each of the beneficiaries concerned, whether the conditions for applying grounds for non-recovery were met.

In response to the argument that the disappearance of certain POs, due to merger-take-overs or liquidations, renders recovery of the aid impossible, the Court holds that France has failed to prove that it can no longer identify the members of those POs or extrapolate the amount of the aid paid to

¹ Case [T-139/09](#) France v Commission, Case [T-243/09](#) Fedecom v Commission and Case [T-328/09](#) Producteurs de légumes de France v Commission. See also Press Release No. [120/12](#).

the producers involved. The Court points out, in that regard, that the fact that the beneficiary companies are in difficulty or bankrupt or are the object of a buy-out or a merger-take-over does not affect the obligation to recover the aid, as the Member State concerned is obliged to take every measure to facilitate the reimbursement of the aid.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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